14399

# TRANSCRIPT OF RECORD.

## SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 116.

W. W. CARGILL COMPANY, PLAINTIFF IN ERROR,

*vs.*

THE STATE OF MINNESOTA EX REL. THE RAILROAD AND WAREHOUSE COMMISSION.

IN ERROR TO THE SUPREME COURT OF THE STATE OF MINNESOTA.

FILED AUGUST 12, 1900.

(17,486.)

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STATE OF MINNESOTA :

Supreme Court, April Term, A. D. 1899.

TE OF MINNESOTA *ex Rel.* THE RAILROAD & WARE-
house Commission, Appellant,
*vs.*
W. CARGILL COMPANY, a Corporation, Respondent. } Petition.

the Hon. Charles M. Start, chief justice of the supreme court of
he State of Minnesota :

The petition of W. W. Cargill Company, a corporation, the de-
dant and respondent in the above-entitled action, respectfully
ws :

That on the 2nd day of August, A. D. 1899, the final judgment
said action was entered in said supreme court, said court being
tribunal having jurisdiction under the laws of the said State of
nesota to render final judgment in all proceedings of that nature,
avor of The State of Minnesota *ex rel.* The Railroad & Ware-
se Commission and against your petitioner.

That said proceeding was an action brought under chapter 148
he General Laws of the State of Minnesota for the Year 1895
petually to enjoin and restrain your petitioner from further
g or operating a certain elevator owned by it and situated on
right of way of the Chicago, Milwaukee & St. Paul Railway
npany, in the village of Lanesboro, county of Fillmore, State of
nesota, for the purpose of receiving, shipping, storing, or hand-
g wheat or other grain in the same until it shall have become
y licensed therefor by the said Railroad & Warehouse Commis-
under the laws of said State.

That in said action your petitioner claimed that the provisions
each thereof of said chap. 148 of the Gen. Laws of Minnesota
for the Year 1895 considered as applicable to the facts in this
case were not enacted in the legitimate exercise by the State
of its police power ; do not conduce to any legitimate police
pose or constitute any police regulations in fact ; have no rela-
whatever to or tendency to accomplish any matter or thing
ch is a proper subject of police regulation ; are unreasonable
constitute an arbitrary and unwarranted interference with the
t of a person to pursue a lawful business in the handling of
own sole property for his own sole purpose, and are unconsti-
onal, illegal, and void.

That in said action your petitioner claimed that the provisions
each thereof of said chapter 148 of the Gen. Laws of Minnesota
the Year 1895 considered as applicable to the facts of said case
repugnant to sec. 1 of art. 14 of the amendment to the Constitu-
of the United States, and are unconstitutional, illegal, and
d.

That in said action your petitioner claimed that the provisions
each thereof of said chap. 148 of the Gen. Laws of Minnesota

for the Year 1895 considered as applicable to the facts of said case are repugnant to sec. 2 of art. 4 of the Constitution of the United States, and are unconstitutional, illegal, and void.

That in said action your petitioner claimed that the provisions and each thereof of said chap. 148 of the Gen. Laws of Minnesota for the Year 1895 considered as applicable to the facts of said case are repugnant to that clause of sec. 8 of art. 1 of the Constitution of the United States, which gives to Congress the power to regulate commerce with foreign nations and among the several States and with the Indian tribes, and are unconstitutional, illegal, and void.

That in said action your petitioner claimed that the provisions of said chap. 148 of the Gen. Laws of Minnesota for the Year 1895 were contrary to art. 14 of the amendment to the Constitution
3 of the United States providing that no State shall deprive any person of life, liberty, or property without due process of law, or deny to any person within its jurisdiction the equal protection of the law, as well as in other respects.

That in said action your petitioner claimed that any authority exercised or attempted to be exercised under said chap. 148 of the Gen. Laws of Minnesota for the Year 1895 was illegal and unlawful and in violation of the provisions of the Constitution of the United States above named, as well as other provisions thereof.

That in said proceeding your petitioner also claimed that said chap. 148 of the Gen. Laws of Minnesota for the Year 1895 and the exercise or any attempt to exercise authority thereunder was in violation of the fundamental principles of justice which underlie the system of the State and Federal governments of the United States.

That the final judgment of said supreme court of the State of Minnesota was against each and all of the rights so claimed by your petitioner in said matter, all of which will more fully appear by the record of said proceedings now remaining in said supreme court.

Wherefore, forasmuch as your petitioner believes there was manifest error in said decision of said court against the several claims of your petitioner, as heretofore set forth, and in the final judgment in said action, which is to the great damage of your petitioner, your petitioner prays that your honor will examine the records of said supreme court of the State of Minnesota in this behalf and allow your petitioner a writ of error to the end that said judgment and record may be brought before the Supreme Court of the United States, agreeably to the laws of the United States in that behalf enacted.

W. W. CARGILL COMPANY, A CORPORATION, *Petitioner.*
KOON, WHELAN & BENNETT,
*Attorneys for Petitioner.*

Dated this 3rd day of August, A. D. 1899.

4 [Endorsed:] 11521. State of Minnesota, supreme court, April term, A. D. 1899. State of Minnesota *ex rel.* The R. R.

& Warehouse Commission, appellant, *vs.* W. W. Cargill Co., a corporation, respondent. Copy. Petition for writ of error. Koon, Whelan & Bennett, attorneys for petitioner.

Endorsed: Filed Aug. 5, 1899. D. F. Reese, clerk.

5 Supreme Court of the United States.

W. W. CARGILL COMPANY, a Corporation, Plaintiff in Error,
*vs.*
STATE OF MINNESOTA *ex Rel.* THE RAILROAD & WAREHOUSE Commission, Defendant in Error.

UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable judges of the supreme court of the State of Minnesota, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court of the State of Minnesota, before you or some of you, being the highest court of law or equity in the said State in which a decision could be had in the action between The State of Minnesota *ex rel.* The Railroad & Warehouse Commission, plaintiff, appellant, *vs.* W. W. Cargill Company, a corporation, defendant, respondent, wherein was drawn in question the validity of a statute of and an authority exercised under said State, on the ground of their being repugnant to the Constitution and laws of the United States, and the said decision was in favor of such their validity, and manifest error hath happened, to the great damage of the said defendant, respondent, as by its complaint appears, we, being willing that such error, if any hath been, should be duly corrected and full and speedy justice done to the said W. W. Cargill Company, defendant, respondent, and to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid,

6 with all things concerning the same, to the justices of the Supreme Court of the United States, at the Capitol, in the city of Washington, together with this writ, so that you have the same at the said place, before the justices aforesaid, within 30 days from the date hereof, that, the record and proceedings aforesaid being inspected, the said justices of the Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States ought to be done.

Witness the Hon. Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 3d day of August, in the year of our Lord one thousand eight hundred and ninety-nine, and of the Independence of the United States of America —.

Seal U. S. Circuit Court, Dist. of Minnesota, Third Division.

HENRY D. LANG,
*Clerk of the Circuit Court of the United States of America for the District of Minnesota.*

Allowed by—
CHAS. M. START,
*Chief Justice of the Supreme Court*
*of the State of Minnesota.*

[Seal of the Supreme Court, State of Minnesota.]

Endorsed.

STATE OF MINNESOTA, } ss:
*Supreme Court,* }

I hereby certify that this writ of error was duly served this fifth day of August, 1899, and that a true copy thereof was delivered to and lodged with the undersigned clerk of said court on said day.

D. F. REESE,
*Clerk of the Supreme Court of Minnesota,*
By J. L. HELM, *Deputy.*

7 [Endorsed:] 11521. Supreme Court of the United States. W. W. Cargill Co., a corporation, plaintiff in error, *vs.* State of Minnesota *ex rel.* The R. R. & Warehouse Commission, defendant in error. Original. Writ of error. Due & personal service of within writ of error is admitted this 3d day of August, 1899. W. B. Douglas, att'y gen'l & att'y for def't in error. Ralph Whelan, att'y for pl'ff in error.

8 Supreme Court of the United States.

W. W. CARGILL COMPANY, a Corporation, Plaintiff in Error,
*vs.*
STATE OF MINNESOTA *ex Rel.* THE RAILROAD & WAREHOUSE Commission, Defendant in Error.

UNITED STATES OF AMERICA, ss:

The President of the United States to the State of Minnesota *ex rel.* The Railroad & Warehouse Commission, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be holden at Washington, within 30 days from the date hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Minnesota, in an action wherein W. W. Cargill Company, a corporation, is plaintiff in error and State of Minnesota *ex rel.* The Railroad & Warehouse Commission is defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to W. W. Cargill Company, a corporation, plaintiff in error, and to the parties aforesaid in that behalf.

Seal of the Supreme Court, State of Minnesota.

Witness the Hon. Charles M. Start, chief justice of the supreme court of the State of Minnesota, this 3d day of August, in the year of our Lord one thousand eight hundred and ninety-nine.

CHAS. M. START,
*Chief Justice of the Supreme Court, State of Minnesota.*

9 Due and personal service of the above citation is hereby admitted on this 3rd day of August, A. D. 1899.

W. B. DOUGLAS,
*Att'y Gen'l & Attorney for Defendant in Error.*

Endorsed.

STATE OF MINNESOTA, *Supreme Court,* } ss:

I hereby certify that this citation was duly served this 5th day of August, 1899, and that a true copy thereof was delivered to and lodged with the undersigned clerk of said court on said day.

D. F. REESE,
*Clerk of the Supreme Court of Minnesota,*
By J. L. HELM, *Deputy.*

10 [Endorsed:] 11521. 3. Supreme Court of the United States. W. W. Cargill Co., a corporation, plaintiff in error, *vs.* State of Minnesota *ex rel.* The R. R. & Warehouse Commission, defendant in error. Original. Citation. E. Ralph Whelan, att'y for pl'ff in error.

11 Supreme Court of the United States.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD & WAREHOUSE COMMISSION, Appellant,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Respondent.

W. W. CARGILL COMPANY, a Corporation, Plaintiff in Error,
*vs.*
STATE OF MINNESOTA *ex Rel.* THE RAILROAD & WAREHOUSE COMMISSION, Defendant in Error.

} Bond.

Know all men by these presents that we, S. D. Cargill and Charles M. Amsden, all of Minneapolis, Hennepin county, Minnesota, are held and firmly bound unto The State of Minnesota *ex rel.* The Railroad & Warehouse Commission, as defendant in error, in the sum of two thousand dollars ($2,000), to be paid to the said State of Minnesota *ex rel.* The Railroad & Warehouse Commission; to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, administrators, and successors, firmly by these presents.

Sealed with our seals and dated this 3rd day of August, A. D. 1899.

Whereas the above-named plaintiff in error has prosecuted a writ of error in the Supreme Court of the United States to reverse the judgment rendered in the above-entitled action by the supreme court of the State of Minnesota:

12 Now, therefore, the condition of this obligation is such that if the above-named plaintiff in error shall prosecute its said writ of error to effect and answer all costs and damages if it shall fail to make good its plea, then this obligation shall be void; otherwise remain in full force and effect.

S. D. CARGILL. [SEAL.]
CHARLES M. AMSDEN. [SEAL.]

Signed, sealed, and delivered in presence of—
E. S. MOOERS.
WILL. A. KOON.

STATE OF MINNESOTA, } ss:
*County of Hennepin,* }

On this 3rd day of August, A. D. 1899, before me, a notary public within and for said county of Hennepin, personally appeared S. D. Cargill and Charles M. Amsden, each to me known to be the persons described in and who executed the foregoing instrument, and they severally acknowledged to me that they executed the same as their free act and deed.

[NOTARIAL SEAL.] WILL. A. KOON,
*Notary Public, Hennepin County, Minnesota.*

STATE OF MINNESOTA, } ss:
*County of Hennepin,* }

S. D. Cargill and Charles M. Amsden, being duly sworn, doth depose and say each for himself that he is worth the sum of four thousand dollars ($4,000) over and above all his just debts and liabilities in unencumbered property in the State of Minnesota subject to execution.

S. D. CARGILL.
CHARLES M. AMSDEN.

Subscribed and sworn to before me this 3rd day of August, A. D. 1899.

[NOTARIAL SEAL.] WILL. A. KOON,
*Notary Public, Hennepin County, Minnesota.*

13 [Endorsed:] 11521. Supreme Court of the United States. W. W. Cargill Company, a corporation, plaintiff in error, *vs.* State of Minnesota *ex rel.* The Railroad & Warehouse Commission, defendant in error. Bond. Due service of the within instrument by receipt of a copy thereof is hereby admitted this — day of August, A. D. 1899. —— ——, attorney general and att'y for defendant in error.

Endorsed: Filed Aug. 5, 1899. D. F. Reese, clerk. The within bond, with the sureties thereon, is hereby approved this 3rd day of Aug., A. D. 1899. Chas. M. Start, chief justice of the supreme court of Minnesota.

14 Supreme Court of the United States.

W. W. CARGILL COMPANY, a Corporation, Plaintiff in Error,
*vs.*
STATE OF MINNESOTA *ex Rel.* THE RAILROAD and Warehouse Commission, Defendant in Error.
} Assignment of Errors.

And now comes the said W. W. Cargill Company, a corporation, plaintiff in error, by Ralph Whelan, its attorney, and says that in the record and proceedings in the foregoing action in the supreme court of the State of Minnesota and in the final judgment entered therein there is manifest error in this:

1.

That said court erred in holding that chapter 148 of the General Laws of Minnesota for the Year 1895 was enacted in legitimate exercise by said State of Minnesota of its police power in so far as said law attempts to declare elevators or warehouses in which only the grain of the owner is received, stored, shipped, or handled public elevators or warehouses, and to make the same subject to the supervision, inspection, and the rules and regulations of the State Railroad and Warehouse Commission, and to require such owner to purchase a license therefor.

2.

That said court erred in holding that chapter 148 of the General Laws of Minnesota for the Year 1895 conduces to any legitimate police purpose or has any relation whatever to or tendency to accomplish any matter or thing which is a proper or legitimate subject for police regulation in so far as said law attempts to declare elevators or warehouses in which only the grain of the owner is received, stored, shipped, or handled public elevators or warehouses, and to be subject to the supervision, inspection, rules, and regulations of the State Railroad and Warehouse Commission, and to require such owner to purchase a license therefor.

15 3.

That said court erred in holding that chapter 148 of the General Laws of Minnesota for the Year 1895 is not unreasonable, illegal, and void, and does not constitute an arbitrary, unwarranted, and unlawful interference with the right of a person to pursue a lawful business in handling his own sole property for his own sole purposes, in so far as said law attempts to declare elevators or warehouses in which only the grain of the owner is received, stored, shipped, or handled public elevators or warehouses, and to be subject to the supervision, inspection, rules, and regulations of the State Railroad and Warehouse Commission, and to require such owner to purchase a license therefor.

4.

That said court erred in holding that chapter 148 of the General Laws of Minnesota for the Year 1895 is not repugnant to section one of article fourteen of the amendments to the Constitution of the United States, and is not illegal, unconstitutional, and void in so far as said law attempts to declare elevators or warehouses in which only the grain of the owner is received, stored, shipped, or handled public elevators or warehouses, and to make the same subject to the supervision, inspection, and regulations of the State Railroad and Warehouse Commission, and to require such owner to purchase a license therefor.

5.

That said court erred in holding that chapter 148 of the General Laws of Minnesota for the Year 1895 is not repugnant to section one of article fourteen of the amendments to the Constitution of the United States, providing that no State shall deprive any person of life, liberty, or property without due process of law, and is not illegal, unconstitutional, and void in so far as said law attempts to declare elevators or warehouses in which only the grain of the owner is received, stored, shipped, or handled public elevators or warehouses, and to make the same subject to the supervision, inspection, and the rules and regulations of the State Railroad and Warehouse Commission, and to require such owner to purchase a license therefor.

16 6.

That said court erred in holding that chapter 148 of the General Laws of Minnesota for the Year 1895 is not repugnant to section one of article fourteen of the amendments to the Constitution of the United States, providing that no State shall make or enforce any law which shall abbridge the privileges or immunities of citizens of the United States, nor deny to any person within its jurisdiction the equal protection of the laws, and is not unconstitutional, illegal, and void in so far as said law attempts to declare elevators or warehouses in which only the grain of the owner is received, stored, shipped, or handled public elevators or warehouses, and to make the same subject to the supervision, inspection, rules, and regulations of the State Railroad and Warehouse Commission, and to require such owner to purchase a license therefor.

7.

That said court erred in holding that chapter 148 of the General Laws of Minnesota for the Year 1895 is not repugnant to section two of article four of the Constitution of the United States, and is not illegal, unconstitutional, and void in so far as said law attempts to declare elevators or warehouses in which only the grain of the owner is received, stored, shipped, or handled public elevators or warehouses, and to make the same subject to the supervision, inspection, rules, and regulations of the State Railroad and Ware-

house Commission, and to require such owner to purchase a license therefor.

8.

That said court erred in holding that chapter 148 of the General Laws of Minnesota for the Year 1895 is not repugnant to that clause of section eight, article one, of the Constitution of the United States granting to Congress the power "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes," and is not unconstitutional, illegal and void in so far as said law attempts to declare elevators or warehouses in which only
17 the grain of the owner is received, stored, shipped, or handled public elevators or warehouses, and to make the same subject to the supervision, inspection, rules, and regulations of the State Railroad and Warehouse Commission, and to require such owner to purchase a license therefor.

9.

That said court erred in holding that chapter 148 of the General Laws of Minnesota for the Year 1895 is not repugnant to that clause of section eight, article one, of the Constitution of the United States granting to Congress the power "to regulate commerce with foreign nations, and among the several States, and with Indian tribes," and is not unconstitutional, illegal, and void in so far as said law attempts to declare elevators or warehouses in which is received, stored, shipped, or handled only the grain of the owner solely purchased and placed in the same for the purpose of shipment and actually shipped from said elevators or warehouses beyond the boundaries of the State of Minnesota into the State of Wisconsin or the State of Illinois, or to other States, public elevators or warehouses, and to make the same subject to the supervision, inspection, rules, and regulations of the State Railroad and Warehouse Commission, and to require such owner to purchase a license therefor.

10.

That said court erred in holding, under the conceded facts as appears by the record aforesaid, that a corporation or person solely engaged in purchasing grain in the State of Minnesota and receiving the same into his own private elevator or warehouse for the sole purpose of shipment and actually shipping the same from such elevator or warehouse to points beyond the boundaries of the State of Minnesota and into Wisconsin, Illinois, and other States should be compelled for a money consideration to procure a license from said State of Minnesota to engage in such business and to be subject to the rules and regulations of the State Railroad and Warehouse Commission, for the reason that such grain so purchased and shipped immediately upon its purchase becomes a subject of interstate commerce within the commerce clause of section eight,
18 article one, of the Constitution of the United States, and cannot be interfered with or acted upon under the provisions of

said chapter 148 of the General Laws of Minnesota for the Year 1895.

11.

That said court erred in holding that chapter 148 of the General Laws of Minnesota for the Year 1895 and the proceedings thereunder in this action, as appears by the record aforesaid, by which the said plaintiff in error has been by a final judgment in the highest court of the State of Minnesota in which a decision in said action could be had perpetually enjoined from further operating its said elevator or warehouse in receiving, shipping, storing, or handling its own wheat or other grain in the same until said plaintiff in error shall have become duly licensed therefor under said law by the State Railroad and Warehouse Commission, are not illegal, unconstitutional and void, and in violation of section one of article fourteen of the amendments of the Constitution of the United States, and of section two of article four of the Constitution of the United States, and of the commerce clause of section eight of article one of the Constitution of the United States, and of the fundamental principles of justice which underly the system of State and Federal Government in the United States.

12.

That said court errred in that by the record aforesaid it appears that the judgment aforesaid given was given for the said defendant in error against the said plaintiff in error, whereas by the law of the land the said judgment ought to have been given for the said plaintiff in error against the said defendant in error.

And the said W. W. Cargill Company, a corporation, plaintiff in error, prays that the judgment aforesaid may be reversed, annulled, and altogether held for naught, and that it, said W. W. Cargill Company, may be restored to all the things which it has lost by occasion of the said judgment, &c.

RALPH WHELAN,
*Attorney for Plaintiff in Error.*

19 [Endorsed:] 11521. Supreme Court of the United States. W. W. Cargill Company, a corporation, plaintiff in error, *vs.* State of Minnesota *ex rel.* The Railroad & Warehouse Commission, defendant in error. Copy. Assignment of errors.
Endorsed: Filed August 5, 1899. D. F. Reese, clerk. Ralph Whelan, attorney for plaintiff in error.

20 (Title of Cause.)

*Assignment of Errors Made and Filed by Plaintiff and Appellant in the State Supreme Court.*

The court erred in holding that Laws 1895, chapter 148, is unconstitutional and void, in so far as it attempts to declare warehouses and elevators in which only the grain of the owner is received, stored, shipped, or handled public elevators, and declaring such ele-

vators and warehouses to be under the supervision and subject to the inspection of the Railroad and Warehouse Commission, and in so far as it attempts to apply to such elevators and warehouses; said law, when so applied, does not constitute a proper or lawful exercise of the police power and is in conflict with and repugnant to section one, article fourteen, of the amendments to the Constitution of the United States, and to section seven, article one, of the constitution of the State of Minnesota.

21 STATE OF MINNESOTA, *Supreme Court,* } ss:

I, D. F. Reese, clerk of the supreme court of the State of Minnesota, do hereby certify that the above and foregoing assignment of errors was made and filed by the plaintiff and appellant in the above-entitled action of State of Minnesota *ex rel.* The Railroad and Warehouse Commission, plaintiff, appellant, *vs.* W. W. Cargill Company, a corporation, defendant, respondent. Said assignment of errors was filed in said supreme court on the 30th day of November, 1898, in accordance with the rules and practice of said court, and became and constituted a part of the record upon which said cause was heard, tried, argued, submitted to, and determined by said court.

In witness whereof I have hereunto set my hand and affixed the seal of the supreme court of the State of Minnesota, at the capitol, St. Paul, Minnesota, this 5th day of August, 1899.

[Seal of the Supreme Court, State of Minnesota.]

D. F. REESE,
*Clerk of Supreme Court of Minnesota,*
By J. L. HELM,
*Deputy Clerk.*

[Endorsed:] 11521. State *ex rel.* Railroad & Warehouse Commission, appellant, *vs.* W. W. Cargill Company, defendant. Assignment of errors, State supreme court.

Endorsed: Filed August 5, '99. D. F. Reese, clerk.

22 STATE OF MINNESOTA, *County of Fillmore,* } ss:

District Court, Tenth Judicial District.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND Warehouse Commission, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant. } Summons.

The State of Minnesota to the above-named defendant:

You and each of you are hereby summoned and required to answer the complaint of the plaintiff in the above-entitled action, a copy of which complaint is hereto annexed and herewith served upon you, and to serve a copy of your answer to said complaint on the under-

signed, at his office, in the capitol building in the city of St. Paul, in the county of Ramsey, State of Minnesota within twenty days after service; and if you fail to answer the said complaint within the time aforesaid the plaintiff in this action will apply to the court for the relief demanded in said complaint.

Dated June 4, A. D. 1897.

H. W. CHILDS,
*Attorney General, and*
GEO. B. EDGERTON,
*Attorneys for Plaintiff, Capitol Building, St. Paul, Minn.*

23 STATE OF MINNESOTA, } ss:
*County of Fillmore,* }

District Court, Tenth Judicial District.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND WAREHOUSE Commission, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant.

Now comes the State of Minnesota, by the Railroad and Warehouse Commission thereof, *who* sues in behalf of said State, and shows to the court and alleges:

1. That the said Railroad and Warehouse Commission is composed of Ira B. Mills, George L. Becker, and Nathan Kingsley, who are, respectively, the duly appointed, qualified, and acting railroad and warehouse commissioners of said State; that A. T. Teisberg is the duly appointed, qualified, and acting secretary of said commission.

2. That the defendant is a corporation duly organized and existing under the laws of the State of Wisconsin; that for a period of more than sixty days last past the said defendant has owned, maintained, and operated and now owns, maintains, and operates a public country elevator in which wheat and other grains belonging to this defendant and other persons are received, stored, shipped, and handled; that the said elevator is situate upon the right of way of the Chicago, Milwaukee and St. Paul Railway Company, a corporation organized and existing under the laws of the State of Wisconsin, in the village of Lanesboro and county of Fillmore, in this State, and upon the lands acquired and reserved by the said railroad company to be used in connection with its line of railway at its station and siding in the said village; that the said elevator
24 is used by the defendant in connection with the said railway at the said siding and station for the receiving and shipping of wheat and other grains transported over the lines of railway of the said railway company to and from the said village and is essential and necessary to the said railway company in order to promptly, safely, and properly handle grains received by it for shipment over its lines to and from the said village and effectively constitutes a necessary adjunct of the said railroad in such regard.

3. That the defendant has never applied to the said Railroad and

Warehouse Commission for a license to receive, ship, store, or handle any grain in said elevator and has never procured a license therefor from the said commission and is now operating the same without authority and in violation of the statute of this State for such case made and provided.

4. That the said village of Lanesboro is not a terminal point for the weighing, inspection, and handling of grain.

Wherefore the plaintiff demands judgment that the defendant be permanently restrained and enjoined from the further operation of the said elevator in receiving, shipping, storing, or handling of wheat or other grains in the same until it shall have become duly licensed therefor by the said Railroad and Warehouse Commission, and for its costs and disbursements.

H. W. CHILDS,
*Attorney General, and*
GEO. B. EDGERTON,
*Attorneys for Plaintiff.*

25 STATE OF MINNESOTA, } ss:
*County of Ramsey,* }

Nathan Kingsley, being by me first duly sworn, deposes and says that he is a member of the Railroad and Warehouse Commission of the State of Minnesota; that he has read the foregoing complaint and knows the contents thereof, and that the same is true.

NATHAN KINGSLEY.

Subscribed and sworn to before me this second day of June, A. D. 1897.

ENOCH JOHNSON,
[SEAL.] *Notary Public, Ramsey County, Minn.*

26 STATE OF MINNESOTA *ex. Rel.* THE RAILROAD AND WAREHOUSE COMMISSION, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant.

STATE OF MINNESOTA, } ss:
*County of Ramsey,* }

R. C. Burdick, being duly sworn, deposes and says that at Lanesboro, Fillmore county and State of Minnesota, on the 7th day of June, 1897, he personally served the annexed summons and complaint upon the defendant named therein by delivering to and leaving with J. L. Parchman, the agent of the defendant at Lanesboro, a true copy of said summons and complaint; and deponent further says that he knew the person so served aforesaid to be the said J. L. Parchman, agent of said defendant.

R. C. BURDICK.

Subscribed and sworn to before me this 10th day of June, A. D. 1897.

ANDREW ERWIN,
[SEAL.] *Notary Public.*

Endorsed: Filed Nov. 30, 1897. Edward G. Rogers, clerk, by G. A. Limberg, deputy.

27 STATE OF MINNESOTA, }
*County of Fillmore.* }

District Court, Tenth Judicial District.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND Warehouse Commission, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant. } Answer.

And now comes the said defendant, by Koon, Whelan & Bennett, its attorneys, and unto the complaint herein of the said plaintiff makes answer:

1. Said defendant does admit that the said Railroad and Warehouse Commission is composed of the several persons in the complaint named, who are the duly appointed, qualified, and acting railroad and warehouse commissioners of said State, and that the person so named in the complaint is the duly appointed, qualified, and acting secretary of said commission; that said defendant is a corporation duly organized and existing under the laws of the State of Wisconsin; that said defendant is the owner of a certain warehouse or elevator situate upon the right of way of the Chicago, Milwaukee and St. Paul Railway Company, a corporation organized and existing under the laws of the State of Wisconsin, in the village of Lanesboro and county of Fillmore, in said State, and upon the lands acquired and reserved by the said railroad company to be used in connection with its line of railway at its station and siding in said village; that said defendant has not applied to the said Railroad and Warehouse Commission for a license to receive, ship, store, or handle grain in said warehouse or elevator and has not procured a license therefor; that the said village of Lanesboro is not a terminal point for the weighing, inspection, and handling of grain.

2. Save as hereinbefore expressly admitted, said defendant does deny each and every allegation in said complaint contained.

28 Wherefore said defendant prays judgment that said action be dismissed and that said defendant go hence without day and recover its costs and disbursements herein.

KOON, WHELAN & BENNETT,
*Attorneys for Defendant.*

STATE OF WISCONSIN, }
*County of La Crosse,* } *ss:*

W. W. Cargill, being duly sworn, says that he is president of W. W. Cargill Company, defendant in the above-entitled action; that the foregoing answer is true of his own knowledge, except as to those matters therein stated on information and belief, and as to those matters that he believes it to be true.

W. W. CARGILL.

Subscribed and sworn to before me this 8th day of July, A. D. 1897.

[NOTARIAL SEAL.] E. J. TULL,
*Notary Public, La Crosse County, Wisconsin.*

Due and personal service of the within answer, by a copy thereof, is hereby admitted this 9th day of July, A. D. 1897.

H. W. CHILDS.

Endorsed: Filed Sept. 15, 1898. Edward G. Rogers, clerk, by G. A. Limberg, deputy.

29 STATE OF MINNESOTA, } ss:
*County of Fillmore.* }

District Court, Tenth Judicial District.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND Warehouse Commission, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant. } Stipulation.

It is hereby stipulated and agreed by and between the parties to the above-entitled action that the place of trial thereof be changed from the county of Fillmore to the county of Ramsey, and the clerk of the district court in said first-named county is hereby authorized to forthwith transmit all the pleadings and papers now on file in his office in said action to the clerk of the district court of said Ramsey county, and said action may be placed on the calendar in the district court of said Ramsey county and brought on for trial at the option of the attorney general for any subsequent term to the December term, A. D. 1897, of said court upon ten days' notice of trial.

Dated Nov. 27, A. D. 1897.

H. W. CHILDS, *Attorney for Plaintiff.*
KOON, WHELAN & BENNETT,
*Attorneys for Defendant.*

Endorsed: Filed Nov. 30, 1898. Edward G. Rogers, clerk, by G. A. Limberg, deputy.

30 *Settled Case.*

STATE OF MINNESOTA, } ss:
*County of Fillmore.* }

District Court, Tenth Judicial District.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD & WAREHOUSE Commission, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant.

Pursuant to the stipulation and agreement of the parties in the above-entitled action for change of the place of trial thereof from

the said county of Fillmore to the county of Ramsey, said State, all the pleadings and papers on file in the office of the clerk of the district court of said Fillmore county were duly transmitted to the clerk of the district court of said Ramsey county, and there-
31 after said action was duly placed on the calendar of the district court of said Ramsey county for trial at the March, A. D. 1898, general term of said court, and came on for trial on the 8th day of March, A. D. 1898, before the Hon. George L. Bunn, one of the judges of said district court of Ramsey county, without a jury, whereupon the following proceedings were had:

The parties in the above-entitled action appearing by their respective counsel, agreed upon, filed, and made a part of the record of said case the following agreed statement of facts, which they mutually agreed should be and constitute all the evidence, admissions, and proofs upon which said action should be tried and submitted to the court, and which agreed statement of facts did in truth and fact constitute all the evidence, admissions, and proofs upon which said action was heard and determined and judgment therein made and entered by said court:

*Agreed Statement of Facts.*

And now come the said parties to the above-entitled action and hereby agree upon and state the facts under the issues raised by the pleadings in said action to be as follows:

1. That on April 16, 1895, and for more than one year prior thereto, said defendant, W. W. Cargill Company, was, ever since has been, and now is, a corporation duly organized and existing under the laws of and a citizen of the State of Wisconsin, United States of America.

2. That during all said time said defendant has been, and now is, engaged in the business of buying, selling, and dealing in grain, and has had, and now has, its principal office and place of business in the city of La Crosse, in said State of Wisconsin, and has owned and operated, and now owns and operates, large terminal grain elevators situated in said city of La Crosse and in the city of Green Bay, in said State of Wisconsin, and divers other grain ele-
32 vators and warehouses situated in other places in said State of Wisconsin.

3. That the village of Lanesboro, referred to in the complaint in said action, is a small village containing about eleven hundred inhabitants, situated in the county of Fillmore, State of Minnesota, upon the railway line of the Southern Minnesota division of the Chicago, Milwaukee & St. Paul Railway Company, distant about fifty-four miles west from and having by said line of railway direct railway connection with said city of La Crosse.

4. That considerable quantities of grain of different kinds are, and during all said time have been, annually raised in said county of Fillmore and marketed, sold, and delivered into divers local grain elevators and warehouses in said Lanesboro, and thence shipped away in cars over said line of railway, which, except wagons drawn

by animals, has been and is the only means and instrumentality for such shipment.

5. That on April 16th, 1895, and for more than one year prior thereto, said defendant owned, occupied, and operated, and continuously since said time has and does now own, occupy, and operate, one certain grain warehouse situated on the right of way of said railway company and near to the track of said line of railway in said village of Lanesboro.

6. That said warehouse is of one story in height, about thirty feet in width, and about one hundred fifteen feet in length, extending in an east and west direction along the south side of said track, and stands on a hillside; that the elevation of the ground on the north side of said warehouse, where said tracks are situated, is much lower than on the south side, where all grain is received into said warehouse.

7. That no machinery or mechanical appliances whatever for elevating or handling grain are, or ever have been, used or contained in said warehouse.

8. That all grain of every kind received into said warehouse has been during all said time and is hauled to the south side of said warehouse in bags on farm wagons, and thence there unloaded by hand by placing the bags of grain, one by one, upon small hand trucks at the entrance of said warehouse, and by conveying the bags on such trucks first to the weighing scale and thence to the
33 grain bins of such warehouse, seven in number, into which the grain is poured from the bags.

9. That all grain of every kind shipped from said warehouse has been during all said time and is spouted by force of gravity into box cars standing on said tracks on the lower side of said warehouse, and thence carried by said railway company over its said line of railway for said defendant and to such points as it, the defendant, may direct.

10. That now and during all the time said warehouse has been owned, occupied, and operated as aforesaid by said defendant each parcel or lot of grain of any kind or description received into or deposited or handled in or shipped from said warehouse is and has been fully and absolutely purchased by this defendant and is and has become before such parcel or lot is or has been received into or deposited or handled in said warehouse its own sole and absolute property.

11. That said defendant does not now and never during said time has received into or shipped from or handled or deposited or in any way stored in said warehouse any grain whatever in which any person or persons other than this defendant now has or has had any property, title, right, or interest whatever, or issued or offered to issue any warehouse receipt or storage ticket for any grain whatever there received or in any form carried on or offered or attempted to carry on in said warehouse the business of receiving, handling, storing, or shipping grain of or for any other person or persons, but that said warehouse now is and during all said time has been used, occupied, and operated by said defendant solely for the pur-

pose of receiving, handling, and shipping its own grain in its private capacity as grain owner and merchant.

12. That now and during all the time said warehouse has been owned, occupied, and operated as aforesaid by said defendant all grain of every kind and description received into or deposited or handled in or shipped from said warehouse is and has been purchased by the defendant, and all contracts of purchase of the same are and have been made and entered into by the defendant for the express purpose of acquiring, shipping, and transporting the same grain as the property solely of the defendant to its said terminal elevators in said cities of La Crosse and Green Bay or to the city of Milwaukee, in the State of Wisconsin, or to the city of Chi-
34 cago, in the State of Illinois, and thence to other points in divers States east of Lake Michigan and upon the Atlantic seaboard.

13. That all said grain is being and during all said time has been so received into or deposited or handled in said warehouse by the defendant for the express purpose of such shipment or transportation as the property solely of the defendant, and is being and has been actually shipped as the property of this defendant from said warehouse in car-load lots over said railway line, and directly and continuously transported by said railway company beyond the boundaries of Minnesota to said terminal elevators, cities, or points situated in said Wisconsin, Illinois, and divers States other than the State of Minnesota and to no other points or places.

14. That now and during all said time all said grain as fast as so received into said warehouse from the wagons is and has been directly and without any delay whatever spouted into box cars of said railway company for such shipment, or is and has been loaded into such cars severally containing different kinds or grades of grain separated from each other within the car by partitions as fast as sufficient grain for such a car-load is and has been accumulated in said warehouse or is and has been loaded out and so shipped as fast as a full car-load of grain of any one kind and grade is and has been received into said warehouse, and no grain received into or deposited in or shipped from said warehouse is or has been handled or shipped in any manner other or different from one or other of the modes aforesaid or kept in said warehouse longer or for any other purpose than as aforesaid.

15. That now and during all said time no grain of any kind or description received into or deposited or handled in or shipped from said warehouse is or has been bargained or sold or delivered to any person or firm or corporation doing business or resident in or a citizen of the State of Minnesota, or shipped or transported to or delivered at any city, village, town, point, or place within the boundaries of said State of Minnesota.

16. That now and during all the time that said warehouse has been owned, occupied, and operated by said defendant as aforesaid all grain of every kind and description received into or de-
35 posited or handled in or shipped from said warehouse is and has been grown in the State of Minnesota, and is and has

been sold and delivered to the defendant by and received into said warehouse from citizens or residents of or persons doing business in the State of Minnesota, the weights, grades, dockage, and inspection of all such grain being, and have always been, fixed by mutual agreement between such persons and this defendant, and without controversy in respect thereto and in no other manner and by no other person; that now and during all said time no weighing, grading, docking, or inspection of any kind or supervision or regulation thereof of any of said grain is or has been done or performed, or attempted or offered to be done or performed, in or about said warehouse on the receipt or shipment of any of said grain, or at any other place or time, by any person delegated or furnished by or acting for or under the authority of the State of Minnesota, or of any law thereof, or of the Railroad and Warehouse Commission of Minnesota, or any rule, regulation, officer, agent, or representative thereof, or by any person whatever in any capacity whatsoever.

17. And the parties to the above-entitled action do hereby further stipulate and agree that said plaintiff does and will make no claim of right to maintain said action, except under and by virtue of chapter 148 of the General Laws of the State of Minnesota for the Year 1895, which chapter is hereby made a part hereof.

18. And said parties do hereby further stipulate and agree that the foregoing agreed statement sets forth all the essential facts under the issues in this action, and shall be submitted to said court as the basis for its judgment therein.

Dated March 8, 1898.

H. W. CHILDS, *Attorney for Plaintiff.*
KOON, WHELAN & BENNETT,
*Attorneys for Defendant.*

And thereupon said hearing was continued until the 20th day of April, A. D. 1898.

Endorsed: Filed March 8, 1898. Edward G. Rogers, clerk, by G. A. Johnson, deputy.

36 STATE OF MINNESOTA, }
*County of Fillmore.* }

District Court, Tenth Judicial District.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND WAREHOUSE Commission, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant.

This cause came on for further hearing in the said district court of Ramsey county, said State, before Hon. Geo. L. Bunn, without a jury, at chambers, on the morning of Wednesday, April 20, 1898. Attorney General Childs appeared on behalf of plaintiff and Koon, Whelan & Bennett appeared for the defendant, whereupon the following proceedings were had:

Mr. WHELAN: And now comes the defendant and hereby moves

the court for the following findings of law and for judgment in its favor for the following reasons:

1. That the plaintiff by the evidence and agreed facts in this case has failed to establish against the defendant the cause of action alleged in the complaint or any cause of action whatever.

2. That the provisions of chapter 148 of the General Laws of Minnesota for the Year 1895 have no application to this case upon its facts, and that this case does not fall within the intent and purposes of those provisions or any of them.

3. That upon the facts in this case it appears that the defendant has not violated any of the provisions of chapter 148 of the General Laws of Minnesota for the Year 1895 or any of said provisions according to their intent and purpose.

4. That the provisions and each thereof of chapter 148 of the General Laws of Minnesota for the Year 1895 considered as applicable to the facts in this case were not enacted in the legitimate exercise by the State of its police power, do not conduce to any legitimate police purpose or constitute any police regulation in fact, have no relation whatever to or tendency to accomplish any
37 matter or thing which is a proper subject of police regulation, are unreasonable, and constitute an arbitrary and unwarranted interference with the right of a person to pursue a lawful business in handling his own sole property for his own sole purposes, and are unconstitutional, illegal, and void.

5. That the provisions and each thereof of chapter 148 of the General Laws of Minnesota for the Year 1895 considered as applicable to the facts of this case are repugnant to section two of article one of the constitution of the State of Minnesota, and are unconstitutional, illegal, and void.

6. That the provisions and each thereof of chapter 148 of the General Laws of Minnesota for the Year 1895 considered as applicable to the facts of this case are repugnant to section seven of article one of the constitution of Minnesota, and are unconstitutional, illegal, and void.

7. That the provisions and each thereof of chapter 148 of the General Laws of Minnesota for the Year 1895 considered as applicable to the facts of this case are repugnant to section one of article fourteen of the amendments of the Constitution of the United States, and are unconstitutional, illegal, and void.

8. That the provisions and each thereof of chapter 148 of the General Laws of Minnesota for the Year 1895 considered as applicable to the facts of this case are repugnant to section two of article four of the Constitution of the United States, and are unconstitutional, illegal, and void.

9. That the provisions and each thereof of chapter 148 of the General Laws of Minnesota for the Year 1895 considered as applicable to the facts of this case are repugnant to that clause of section eight of article one of the Constitution of the United States which gives to Congress the power "to regulate commerce with foreign nations and among the several States and with the Indian tribes," and are unconstitutional, illegal, and void.

Attorney General CHILDS: And now comes the plaintiff and moves the court for judgment in accordance with the demand expressed in the complaint, viz: That the defendant be *pre*manently restrained and enjoined from the further operation of the said elevator in receiving, shipping, storing, or handling wheat or grains in the
38 same until it shall have become fully licensed therefor by the Railroad and Warehouse Commission of the State of Minnesota.

Case heard and submitted upon agreed statement of facts heretofore filed and made a part of the record herein.

Filed April 20, 1898.

EDWARD G. ROGERS, *Clerk*,
By G. A. LIMBERG, *Deputy*.

39 STATE OF MINNESOTA, }
*County of Ramsey.* }

District Court, Second Judicial District.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND WAREHOUSE COMMISSION, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant.

In the above-entitled action, tried before the court without a jury, after hearing allegations, proofs, and admissions of the parties I make the following findings of fact and conclusions of law:

*Findings of Fact.*

1. The Railroad and Warehouse Commission, the relator in this action, is composed of Ira B. Mills, George L. Becker, and Nathan Kingsley, who are respectively the duly appointed, qualified, and acting railroad and warehouse commissioners of said State; A. T. Teisberg is the duly appointed, qualified, and acting secretary of said commission.

2. That on April 16, 1895, and for more than one year prior thereto, said defendant, W. W. Cargill Company, was, ever since has been, and now is, a corporation duly organized and existing under the laws of and a citizen of the State of Wisconsin, United States of America.

3. That during all said time said defendant has been and now is engaged in the business of buying, selling, and dealing in grain, and has had and now has its principal office and place of business in the city of La Crosse, in said State of Wisconsin, and has owned and operated and now owns and operates large terminal grain elevators situated in said city of La Crosse and in the city of Green Bay, in said State of Wisconsin, and divers other grain elevators and warehouses situated in other places in said State of Wisconsin.

4. That the village of Lanesboro, referred to in the com-
40 plaint in said action, is a small village containing about eleven hundred inhabitants, situated in the county of Fill-

more, State of Minnesota, upon the railway line of the Southern Minnesota division of the Chicago, Milwaukee & St. Paul Railway Company, distant about fifty-four miles west from and having, by said line of railway, direct railway connection with said city of La Crosse.

5. That considerable quantities of grain of different kinds are and during all said time have been annually raised in said county of Fillmore, and marketed, sold, and delivered into divers local grain elevators and warehouses in said Lanesboro, and thence shipped away in cars over said line of railway, which, except wagons drawn by animals, has been and is the only means or instrumentality for such shipment.

6. That on April 16, 1895, and for more than one year prior thereto, said defendant owned, occupied, and operated and continuously since said time has and does now own, occupy, and operate one certain grain warehouse situated on the right of way of said railway company, and near to the tracks of said line of railway in said village of Lanesboro.

7. That said warehouse is of one story in height, about thirty feet in width, and about 115 feet in length, extending in an east and west direction along the south side of said tracks, and stands on a hillside; that the elevation of the ground on the north side of said warehouse, where said tracks are situated, is much lower than on the south side, where all grain is received into said warehouse.

8. That no machinery or mechanical appliances whatever for elevating or handling grain are or ever have been used or contained in said warehouse.

9. That all grain of every kind received into said warehouse has been during all said time and is hauled to the south side of said warehouse in bags on farm wagons, and thence there unloaded by hand by placing the bags of grain, one by one, upon small hand trucks at the entrance of said warehouse, and by conveying the bags on such trucks first to the weighing scale and thence to the grain bins of such warehouse, seven in number, into which the grain is poured from the bags.

10. That all grain of every kind shipped from said ware-
41 house has been during all said time and is spouted by force of gravity into box cars standing on said tracks on the lower side of said warehouse, and thence carried by said railway company over its said line of railway for said defendant, and to such points as it, the defendant, may direct.

11. That now and during all the time said warehouse has been owned, occupied, and operated as aforesaid by said defendant each parcel or lot of grain of any kind or description received into or deposited or handled in or shipped from said warehouse is and has been fully and absolutely purchased by this defendant, and is and has become before such parcel or lot is or has been received into or deposited or handled in said warehouse its own sole and absolute property.

12. That said defendant does not now and never during said time has received into or shipped from or handled or deposited or

in any ways stored in said warehouse any grain whatever in which any person or persons other than this defendant now has or has had any property, title, right, or interest whatever, or issued or offered to issue any warehouse receipt or storage ticket for any grain whatever there received, or in any form carried on or offered or attempted to carry on in said warehouse the business of receiving, handling, storing, or shipping grain of or for any other person or persons, but that said warehouse now is and during all said time has been used, occupied, and operated by said defendant solely for the purpose of receiving, handling, and shipping its own grain in its private capacity as grain owner and merchant.

13. That now and during all the time said warehouse has been owned, occupied, and operated as aforesaid by said defendant all grain of every kind and description received into or deposited or handled in or shipped from said warehouse is and has been purchased by the defendant, and all contracts of purchase of the same are and have been made and entered into by the defendant for the express purpose of acquiring, shipping, and transporting the same grain as the property solely of the defendant to its said terminal elevators in said cities of La Crosse and Green Bay or to the city of Milwaukee, in the State of Wisconsin, or to the city of Chi-
42 cago, in the State of Illinois, and thence to other points in divers States of Lake Michigan and upon the Atlantic seaboard.

14. That all said grain is being and during all said time has been so received into or deposited or handled in said warehouse by the defendant for the express purpose of such shipment or transportation as the property solely of the defendant, and is being and has been actually shipped as the property of this defendant from said warehouse in car-load lots over said railway line, and directly and continuously transported by said railway company beyond the boundaries of Minnesota to said terminal elevators, cities, or points situated in said Wisconsin, Illinois, and divers States other than the State of Minnesota and to no other points or places.

15. That now and during all said time all said grain as fast as so received into said warehouse from the wagons is and has been directly and without any delay whatever spouted into box cars of said railway company for such shipment, or is and has been loaded into such cars severally containing different kinds or grades of grain separated from each other within the car by partitions as fast as sufficient grain for such a car-load is and has been accumulated in said warehouse, or is and has been loaded out and so shipped as fast as a full car-load of grain of any one kind and grade is and has been received into said warehouse, and no grain received into or deposited in or shipped from said warehouse is or has been handled or shipped in any manner other or different from one or other of the modes aforesaid or kept in said warehouse longer or for any other purpose than as aforesaid.

16. That now and during all said time no grain of any kind or description received into or deposited or handled in or shipped from said warehouse is or has been bargained or sold or delivered to any

person or firm or corporation doing business or resident in or a citizen of the State of Minnesota, or shipped or transported to or delivered at any city, village, town, point, or place within the boundaries of said State of Minnesota.

17. That now and during all the time that said warehouse has been owned, occupied, and operated by said defendant as
43 aforesaid all grain of every kind and description received into or deposited or handled in or shipped from said warehouse is and has been grown in the State of Minnesota and is and has been sold and delivered to the defendant by and received into said warehouse from citizens and residents of or persons doing business in the State of Minnesota, the weights, grades, dockage, and inspection of all such grain being and having always been fixed by mutual agreement between such persons and this defendant and without controversy in respect thereto and in no other manner and by no other persons; that now and during all said time no weighing, grading, docking, or inspection of any kind or supervision or regulation thereof of any of said grain is or has been done or performed or attempted or offered to be done or performed in or about said warehouse on the receipt or shipment of any of said grain or at any other place or time by any person delegated or furnished by or acting for or under the authority of the State of Minnesota or of any law thereof or of the Railroad and Warehouse Commission of Minnesota or any rule, regulation, officer, agent, or representative thereof or by any person whatever in any capacity whatsoever.

18. That defendant has never applied to the said Railroad and Warehouse Commission for license to receive, ship, store, or handle any grain in said elevator and has never procured a license therefor from said commission.

19. The parties to this action have stipulated and agreed that plaintiff does and will make no claim of right to maintain this action except under and by virtue of chapter 148 of the General Laws of the State of Minnesota for the Year 1895.

*Conclusions of Law.*

Laws 1895, chapter 148, by its terms applies to elevators and warehouses in which only the grain of the owner is received, stored, shipped, or handled as well as the elevators and warehouses in which grain of the public is received, stored, shipped, or handled for hire.

Laws 1895, chapter 148, construed as above, is unconstitutional and void in so far as it attempts to declare warehouses and elevators in which only the grain of the owner is received, stored, shipped, or handled public elevators, and declaring such elevators and
44 warehouses to be under the supervision and subject to the inspection of the Railroad and Warehouse Commission, and in so far as it attempts to apply to such elevators and warehouses. Said law when so applied does not constitute a proper or lawful exercise of the police power and is in conflict with and repugnant to section one, article fourteen, of the amendments to the Constitu-

tion of the United States and to section seven, article one, of the constitution of the State of Minnesota.

Laws 1895, chapter 148, except as it applies or purports to apply to elevators and warehouses in which the grain of the owner only is received, stored, shipped, or handled, is constitutional and valid, being a proper and lawful exercise of the police power of the State.

The plaintiff has failed to establish against the defendant any cause of action, and defendant is entitled to judgment that plaintiff take nothing and have no relief in this action, and that defendant recover its costs and disbursements herein.

Let judgment be entered accordingly.

GEORGE L. BUNN,
*District Judge.*

June 2, 1898.

45 *Memorandum.*

1. Under the familiar rule that where one construction of a statute will make it void for conflict with the constitution and another will render it valid, the latter construction, if not a forced and unreasonable one, will be adopted; although the former at first view is otherwise the more natural interpretation of the language used, it might be possible to construe the language of section one of this act as only applicable to elevators and warehouses "in which grain is received, stored, shipped, or handled" for others. The omission of the words "for others" or "for hire" or "for profit," or words indicating a public interest in the business, usually contained in similar laws, would seem, however, to indicate the intention of the legislature that purely private elevators and warehouses, storing only grain belonging to the warehousemen. were to be subject to the provisions of the laws as well as those storing grain for others for hire. However, if it were necessary to adopt the other construction in order to sustain the validity of the law, it may be that a consideration of the purposes of the legislature and the language of the other sections of the act would warrant a court in so doing. But as I think it clear that the law is valid as applied to all elevators and warehouses, except purely private ones, and as I regard the other the more natural interpretation of the language used, I do not think it necessary in order to save the law to adopt the construction that makes it applicable only to elevators and warehouses that receive or store grain for others. It is in fact applicable only to them, and the law is valid to that extent. A strained or forced construction is therefore unnecessary, as the law is operative without it to the same extent as it would be were the forced construction adopted.

2. I am unable to escape the conclusion that the law is unconstitutional in so far as it applies to elevators and warehouses that do not receive, store, or handle any grain for others and have never done so, as it appears from the findings and the stipulated facts in the case with the defendant's warehouse.

46 The right of the State in the exercise of its police power to regulate the business of receiving, weighing, inspecting,

and storing grain for others in elevators or warehouses as being a business affected with a public interest is now settled beyond all controversy.

Rippe *vs.* Becker, 56 Minn., 100.
Munn *vs.* Illinois, 94 U. S., 113.
Budd *vs.* New York, 143 U. S., 517.
Brass *vs.* Stoesser, 153 U. S., 391.

But unless the business is "affected with a public interest" the State has no right to interfere, and it is the storing for others that creates and constitutes the public interest which alone authorizes and warrants interference and regulations by the public—that is, by the State.

This principle is the foundation on which the decisions in the above cases rest. I am not aware that it has ever been held that the character of the product stored or handled is the test of whether a "public interest" is affected. It is not the character of the commodity stored, but the fact that the handling or storing is done for others, for the public, for a compensation paid by the public, that creates the public interest. A man may own and operate a ferry for his own use or for the use of his family and not for the use of the public without being subject to State regulations, but as soon as he operates the ferry for the public for pay it becomes a business "affected with a public interest" and subject to regulation by the public (Munn *vs.* Illinois and authorities cited). So it seems to me that a man may own and use his house, cellar, store, or warehouse for storing, selling, and handling his own property without being subject to State regulation, but when he stores the property of others for pay his business becomes "affected with a public interest" and subject to State regulation.

47 In Brass *vs.* Stoesser the Supreme Court of the United States extended to its full limit the doctrine of the right of a State to regulate a private business affected with a public interest, but the court sustained the law of North Dakota as applied to the facts in that case on the ground that, although Brass used his elevator chiefly to store his own grain, yet he had stored grain for others when there was room in his elevator. The court held that this was sufficient to create the "public interest" and to bring his elevator within the operation of the law. Mr. Justice Shiras, in the majority opinion, indicates clearly enough that had the law applied to warehouses built and used by the owner to store only his own grain, or had Brass built and used his elevator for that purpose only, the decision would have been different.

In Stewart *vs.* Great Northern R'y Co., 65 Minn., 515, our supreme court recognizes the difference between a "public elevator," one in which grain is received, stored, and handled for the public for hire, and a "private elevator," or one used exclusively as an instrumentality in the owner's private business, and concedes that if the court were compelled to construe the language of the Laws 1893,

sec. 64, as attempting to give the right of eminent domain to secure a site to elevators or warehouses erected and operated for the "purchase, sale, and shipment" of the owner's grain only or for the "storage of grain for the public, for hire," the act would be unconstitutional as authorizing the right to exercise the power of eminent domain for a private use. The act declared all warehouses and elevators erected and maintained under the provisions thereof to be public and subject to legislative control, and yet this declaration is considered by the court as an additional reason for its construction of the words "for the purchase, sale, shipment, or storage of grain for the public for hire" and not as in itself operating to make private elevators public or to bring them under legislative control. If, indeed, a declaration to this effect was valid or operative, it would have been of itself sufficient to render the grant of the
48 power of eminent domain valid as for a public use.

3. The law under consideration applies only to elevators and warehouses situated on the right of way of any railroad or on depot grounds or lands acquired or reserved by a railroad company to be used in connection with its line of railway at any station or siding in the State other than at terminal points. The plaintiff contends that the fact that an elevator is situated upon the right of way of a railway company gives the State the right to declare it a public elevator and to require a license for its operation, even though it is not and has never been used or operated for the handling or storage of grain for others. In other words, the argument is that the location of the elevator on the right of way of a railroad company makes the elevator so much a part of the system of transportation of grain by rail or makes it so intimately connected with the railroad itself that a "public interest" is created sufficient to authorize State regulation.

I am unable to see how the mere fact that the elevator is situated on the right of way creates this public interest. May not a railroad company permit a shipper to erect on its right of way or depot grounds a warehouse or other structure for the temporary storage of the shipper's own goods without making the shipper's business one affected with a public interest so as to authorize regulation of it by the State? Elevators, warehouses, freight-houses, and other structures operated by the railroad company for the use of the public or operated by private owners for the use of the public are undoubtedly subject to legislative regulation and control, whether situated on the right of way or not, but a purely private warehouse or storehouse built and operated for the use of the owner only is not affected with a public interest and is not subject to legislative regulation simply because it happens to be located upon the right of way or depot grounds of a railroad company.
49 4. The law of 1895, therefore, is unconstitutional as applied to the facts in this case. But it is, in my opinion, constitutional and valid when applied to other states of facts. If an elevator or warehouse is, or has ever been, used for the storage of grain for others, for hire, even though its principal business is the hand-

ling or storing of the owner's grain, the law is operative and valid as to such elevator or warehouse.

Brass *vs.* Stoesser, 153 U. S., 391.
Meyer *vs.* Berlandi, 39 Minn., 438.
O'Brien *vs.* Krenz, 36 Minn., 136.
Smith *vs.* Ames, 10 U. S. advance sheets, L. C. R. Co., 438.
Nebraska Rate Case, U. S. Supreme Court.

BUNN, *J.*

Endorsed: Filed June 3, 1898. Edward G. Rogers, clerk, by G. A. Limberg, deputy.

50 STATE OF MINNESOTA, *County of Ramsey,* } ss:

District Court, Second Judicial District.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND Warehouse Commission, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant. } Stipulation.

It is hereby mutually stipulated and agreed by and between the respective parties to the above-entitled action that judgment may be entered therein forthwith upon the filing of this stipulation in favor of said defendant upon the order of said court heretofore filed in said action on the 3rd day of June, A. D. 1898, costs and disbursements in said action being hereby expressly waived.

Dated Aug. 3, A. D. 1898.

H. W. CHILDS, *Attorney for Plaintiff.*
KOON, WHELAN & BENNETT,
*Attorneys for Defendant.*

Endorsed: Filed Aug. 12, 1898. Edward G. Rogers, clerk, by G. A. Limberg, deputy.

51 The foregoing case, hereto attached, having been found conformable to the truth, is hereby settled and allowed as a case in said action, and it is hereby ordered to be made a part of the record therein, and I hereby certify that the within settled and allowed case contains all the evidence, admissions, and proofs offered or received and all the proceedings had in the above-entitled action and at the trial thereof.

By the court:

GEORGE L. BUNN, *Judge.*

52 STATE OF MINNESOTA, } ss:
*County of Ramsey,* }

District Court, Second Judicial District.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND Warehouse Commission, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant. } Judgment.

This cause being regularly upon the calendar of the above-named court for the March, A. D. 1898, general term thereof, came on for trial on the 8th day of March, A. D. 1898, before his honor George L. Bunn, one of the judges of said court, without a jury, on which day, after the introduction of all the evidence by said parties, said trial was adjourned until April 20th, A. D. 1898, on which last-named day the trial was resumed and the arguments of counsel for the respective parties duly heard, and the court, after hearing the evidence adduced at said trial, the arguments of counsel, and being fully advised in the premises, did on the 3rd day of June, A. D. 1898, duly make and file its findings of fact, conclusions of law, and order for judgment herein.

Now, pursuant to said order and the stipulation of said parties waiving costs herein, and on motion of Messrs. Koon, Whelan & Bennett, attorneys for the defendant, it is hereby adjudged and decreed that chapter one hundred and forty-eight (148) of the General Laws of Minnesota for the Year 1895 by its terms applies to elevators and warehouses in which only the grain of the owner is received, stored, shipped, or handled, as well as to elevators and warehouses in which grain of the public is received, stored, shipped, or handled for hire.

That chapter one hundred and forty-eight (148) of the General Laws of the State of Minnesota for the Year 1895, construed as above, is unconstitutional and void in so far as it attempts
53 to declare warehouses and elevators in which only the grain of the owner is received, stored, shipped, or handled public elevators, and declaring such elevators and warehouses to be under the supervision and subject to the inspection of the Railroad and Warehouse Commission, and in so far as it attempts to apply to such elevators and warehouses; said law, when so applied, does not constitute a proper or lawful exercise of the police power and is in conflict with and repugnant to section one (1) of article fourteen (14) of the amendments to the Constitution of the United States, and to section seven (7) of article one (1) of the constitution of the State of Minnesota.

That chapter one hundred and forty-eight (148) of the General Laws of Minnesota for the Year 1895, except as it applies or purports to apply to elevators and warehouses in which the grain of the owner only is received, stored, shipped, or handled, is constitutional and valid, being a proper and lawful exercise of the police power of the State.

It is further adjudged and decreed, that plaintiff has failed to es-

tablish against the defendant any cause of action, and that plaintiff take nothing and have no relief in this action.

Dated Aug. 10, A. D. 1898.

Judgment entered August 12th, 1898.

EDWARD G. ROGERS,
*Clerk of Court.*

Form approved Aug. 12, 1898.

BUNN, *J.*

Endorsed: Filed Aug. 12, 1898. Edward G. Rogers, clerk, by G. A. Limberg, deputy.

54 STATE OF MINNESOTA, }
*County of Ramsey.* }

District Court, Second Judicial District.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD and Warehouse Commission, Plaintiff,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Defendant.
} Notice of Appeal.

To Koon, Whelan & Bennett, attorneys for the above-named defendant, and to Hon. E. G. Rogers, clerk of said district court:

Please take notice that the above-named plaintiff hereby appeals to the supreme court of the State of Minnesota from the judgment of the said district court entered herein on the 12th day of August, A. D. 1898, and from the whole thereof.

Dated this 28th day of December, A. D. 1898.

H. W. CHILDS,
*Attorney for Plaintiff.*

Due and personal service of the within notice of appeal by copy thereof is hereby admitted on this 28th day of December, A. D. 1898.

KOON, WHELAN & BENNETT,
*Attorneys for Defendant.*
EDWARD G. ROGERS,
*Clerk of the District Court.*

Endorsed: Filed Dec. 28th, 1898. Edward G. Rogers, clerk, by G. A. Limberg, deputy.

55 STATE OF MINNESOTA, }
*County of Ramsey.* }

Second Judicial District.

I, Edward G. Rogers, clerk of the district court, Ramsey county and State of Minnesota, do hereby certify and return to the honorable the supreme court of said State that I have compared the foregoing paper-writing with the original summons, complaint, answer,

stipulation, settled case, judgment, and notice of appeal, stipulation referred to being the one for change of venue from Fillmore to Ramsey county, in the action therein entitled, now remaining of record in my office, and that the same is a true and correct copy and transcript of said original and the whole thereof.

Witness my hand and seal of said court, at St. Paul, this twenty-ninth day of December, A. D. 1898.

[SEAL.] EDWARD G. ROGERS, *Clerk*,
By ARTHUR J. STODDARD,
*Deputy Clerk.*

[Revenue stamp.]

56 [Endorsed:] 11521. State of Minnesota *ex rel.* The Railroad and Warehouse Commission, plaintiff, *vs.* W. W. Cargill Company, a corporation, defendant. Return. H. V. Childs and Geo. B. Edgerton, attorneys for plaintiff. Koon, Whelan & Bennett, attorneys for def't. Return to supreme court, State of Minn.
Endorsed: Filed Dec. 29, 1898. D. F. Reese, clerk.

57 STATE OF MINNESOTA:

Supreme Court, April Term, A. D. 1899.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD and Warehouse Commission, Appellant,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Respondent.
} No. 22. Syllabus.

The defendant operates a grain warehouse in a village in this State, in which no grain is stored but defendant's own, which it purchases of the farmers at the warehouse where the grain is so delivered and where it is weighed and graded by defendant on its own scales and with its own appliances. Held, the business so carried on is of such a public character and sufficiently affected with a public interest that the legislature may require persons operating such warehouse to take out a license therefor as provided in chapter 148, Gen. Laws 1895.

58 STATE OF MINNESOTA:

Supreme Court, April Term, A. D. 1899.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD & Warehouse Commission, Appellant,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Respondent.
} No. 22. Opinion.

Since April, 1894, the defendant has been operating a warehouse at Lanesboro, Minn., used by it for storing grain therein, but has never obtained from the State Railroad and Warehouse Commission, pursuant to chapter 148, Gen. Laws 1895, a license authorizing it to ship, store, or handle grain in such warehouse; and this is an action

brought to enjoin defendant from so operating the same without a license. On the trial the court found for defendant, and plaintiff appeals from the judgment entered accordingly.

The defendant has never stored in this elevator any grain except its own, which it had bought of the farmers at the warehouse, and which was raised in this State, presumably in the vicinity of Lanesboro. The court below held that, as applied to such a case, said chapter 148 is unconstitutional; that this is a private warehouse, in which no grain was ever stored for others or for the public, and that therefore it was not affected with a public interest, and the State had no right to interfere or regulate the manner of its use. This is also the position taken by respondent. If the business carried on at this warehouse consisted of nothing more than storing defendant's own grain we would concede that such business would warrant but little interference or regulation of it by the State; but that business does consist of something more. It was conceded on the argument, and is fairly to be inferred from the findings
59 and stipulation of facts, that the grain is purchased, weighed, graded, and delivered at the warehouse, and that defendant, with its own scales and appliances, weighs and grades the grain. Under these circumstances the warehouse is a sort of public market place, where the farmers come with their grain for the purpose of selling the same, and where the purchaser, a party in interest, acts as marketmaster, weighmaster, inspector, and grader of the grain. Surely such a business is of a public character and is sufficiently affected with a public interest to warrant a very considerable amount of regulation of it by the State. The business carried on by defendant at its warehouse is similar to that carried on at a large number of other warehouses and elevators in this State. The grain crops of this State constitute by far the most important part of its commerce and its greatest resource. It is important to see that correct weights are had; that uniform grades are given; that the proper amount of dockage and no more is taken; that no dishonest practices are allowed and no undue advantage is permitted to be taken. Said chapter 148 requires the person operating such an elevator or warehouse to procure a license to be issued by the State Railroad and Warehouse Commission, for which a fee of one dollar per year must be paid. The act also provides that such license may be revoked by the commission if the warehouse or elevator is operated in violation or in disregard of the laws of this State. Section 2 provides that any person attempting to run such an elevator or warehouse without a license may be enjoined in a suit for that purpose. Section 3 provides that the commission may make suitable and necessary rules and regulations for the government of public country warehouses and elevators. Then follow other provisions. There are undoubtedly many provisions in the act which apply only to warehouses and elevators in which grain is stored for others or for the public, and which provisions do not and cannot apply to such warehouses as the one here in question. There are, perhaps, provisions in the act which it would be unconstitutional to apply to such

a warehouse as this; but these matters need not be considered
60 at this time. The provision requiring a license is not one of these. This disposes of the only question argued which it is necessary to consider. Judgment reversed and a new trial granted.

CANTY, *J.*

61 In view of the facts, among others, that grain is the principal agricultural product of the State, that in the purchase and sale of it there is great liability to abuses in the matter of weights and grades, and that these are usually determined by the purchaser with his own instrumentalities, I agree with the court that although the owner of a warehouse uses it exclusively for the storage of his own grain, yet if he uses it for the purpose of buying grain from the public, thus rendering it, in effect, a public market, his business is a proper subject of police regulation by the State to the extent of providing such rules and regulations as are reasonably necessary to secure to the public just and correct weights and grades. The requirement of a license may be a reasonable regulation in such cases as a means of enabling State officials to ascertain who are engaged in the business. In my opinion this is the extent of the police power of the State in such cases. But in the act in question (Gen. Laws 1895, c. 148) the legislature have not proceeded on any such principle. They have declared all elevators and warehouses falling within the purview of the act, whether used for the storage of grain for others or not, to be public elevators and subject to all the provisions of the act. These provisions constitute a system of rules and regulations the different parts of which are so connected with and dependent upon each other that it is in many instances impossible to separate them. Many of them are wholly inapplicable to warehouses not used for the storage of grain for others. The opinion of the court concedes this. Some of them are, in my judgment, clearly not within the police power of the State as applied to warehouses not used for the storage of grain for others. As illustrating that the system of rules and regulations contained in the act was intended as a unit, applicable to all warehouses within the purview of the act, the fourth section, as I construe it, makes it compulsory on the owner of any such warehouse to engage in the business of storing grain for others, a thing which is not within the police power of the State, unless the
fact that the warehouse happens to be situated on land ac-
62 quired by a railway company for right of way or for railway purposes in connection with one of its stations or sidings gives the State that power—a question not considered by the court. As I understand the opinion of the majority, they propose to cut down the application of the act to warehouses not used for the storage of grain for others than the owner to such parts of the act as are applicable and appropriate to such business and to that extent hold it valid. In view of the connection and interdependency of the different provisions of the act, this will be a difficult if not an impossible thing to do. It would be a most unreasonable task to impose upon every owner of a warehouse used exclusively for the

storage of his own grain bought from the public to determine what provisions or parts of provisions are applicable to his business. He can only know this with any certainty after the courts have, by a gradual process of exclusion and inclusion, decided all doubtful questions on the subject. It is possible that upon other points not raised or presented a different result might be arrived at, but considering the case exclusively upon the lines followed by the majority of the court, I am of the opinion that the whole act should be held invalid as to warehouses not used for the storage of grain for others and let the legislature hereafter pass an act containing provisions appropriate to that class of warehouses. The fact that the act applies only to elevators and warehouses on railroad rights of way, depot grounds, or land acquired by a railroad company for railroad purposes at one of its stations or sidings may suggest the question whether it is "class legislation," but, as no such point has been raised, I have not considered it.

MITCHELL, *J.*

[Endorsed:] Syllabus and opinion.

63 [Endorsed:] No. 11521. State of Minnesota, supreme court. State *ex rel.* Railroad & Warehouse Commission, appellant, *vs.* W. W. Cargill, respondent. Copy of opinion and syllabus. Endorsed: Filed July 3, 1899. D. F. Reese, clerk. April term, A. D. 1899. Canty, J.

64 April Term, A. D. 1899.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND WAREHOUSE COMMISSION, Appellant,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Respondent. } No. 22.

Pursuant to an order of court duly made and entered in this cause on the twenty-fifth day of July, A. D. 1889—

It is here and hereby determined and adjudged that the judgment of the court below, herein appealed from, to wit, of the district court of the second judicial district, sitting within and for the county of Ramsey, be, and the same hereby is, in all things reversed and a new trial granted; and it is further determined and adjudged that the appellant above named do have and recover of said W. W. Cargill Company, a corporation, respondent herein, the sum and amount of ninety-four dollars ($94.00), costs and disbursements in this cause in this court, and that said appellant have execution for the enforcement thereof.

Dated and signed this 25th day of July, 1899.

By the court.

Attest:

[Seal of the Supreme Court, State of Minnesota.]

D. F. REESE, *Clerk.*

*Statement for Judgment.*

| | |
|---|---|
| Costs allowed by statute | |
| Clerk's fees for making return | |
| Printer's fees | $84.00 |
| Clerk's fees supreme court | 10.00 |
| Filing mandate | |
| Affidavits and acknowledgments | |
| Postage | |
| | $94.00 |

65 [Endorsed:] 11521. State of Minnesota, supreme court. State *ex rel.* R. R. and Warehouse Commission, appellant, *vs.* W. W. Cargill Co., respondent. Transcript of judgment.
Endorsed: Filed July 25, A. D. 1899. D. F. Reese, clerk. ——
——, attorney for —. Page No. 49, "X" Book.

STATE OF MINNESOTA, *Supreme Court,* } ss:

I, D. F. Reese, clerk of said supreme court, do hereby certify that the foregoing is a full and true copy of the entry of judgment in the cause therein entitled, as appears from the original remaining of record in my office; that I have carefully compared the within copy with said original, and that the same is a correct transcript therefrom.

Witness my hand and the seal of said supreme court, at the capitol, in the city of St. Paul, this 25th day of July, A. D. 1899.

D. F. REESE, *Clerk.*

66 STATE OF MINNESOTA:

Supreme Court, April Term, A. D. 1899.

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| STATE *ex Rel.* R. R. AND WAREHOUSE Commission, Appellant, *vs.* W. W. CARGILL CO., Respondent. | No. 22. Appeal from District Court Second Judicial District, County of Ramsey. |

This cause having been duly argued and submitted at the general April term of this court, A. D. 1899, upon the return to the appeal herein:

Now, after full and mature deliberation had thereon, it is here and hereby ordered that the judgment of the court below, herein appealed from, be, and the same hereby is, in all things reversed and a new trial granted, and that the appellant above named have judgment accordingly.

Entered July 25, A. D. 1899.
By the court.
Attest:

[Seal of the Supreme Court, State of Minnesota.]

D. F. REESE, *Clerk.*

I hereby certify that the foregoing is a full and true copy of the original order for judgment entered in the above-entitled cause.
Attest: D. F. REESE, *Clerk*.

[Endorsed:] No. 11521. State of Minnesota, supreme court. Copy of order for judgment.
Endorsed: Filed July 25, A. D. 1899. D. F. Reese, clerk.

67 STATE OF MINNESOTA:

Supreme Court, General April Term, A. D. 1899.

TUESDAY MORNING, 9.30 O'CLOCK, *June* 20, *A. D.* 1899.

Court convened pursuant to adjournment, all the justices being present.

STATE *ex Rel.* R. R. AND WAREHOUSE Commission, Appellant, *vs.* W. W. CARGILL CO., Respondent. } Cal. No., 22; Reg. No., 11521.

This cause came on to be heard this day upon the return to the appeal herein.
Thereupon the same was argued by counsel, submitted to the court for decision, and taken under advisement.
A true record.
[Seal of the Supreme Court, State of Minnesota.]
Attest: D. F. REESE, *Clerk*.

The foregoing is a full and true copy of the minutes of argument in the above-entitled cause.
Attest: D. F. REESE, *Clerk*.

[Endorsed:] 11521. State of Minnesota, supreme court. Copy of minutes of argument.
Endorsed: Filed July 25, A. D. 1899. D. F. Reese, clerk.

68 [Endorsed:] No. 11521. State of Minnesota, supreme court. State *ex rel.* R. R. and Warehouse Com., appellant, against W. W. Cargill Co., respondent. Judgment-roll.
Endorsed: Filed July 25, 1899. D. F. Reese, clerk.

69 STATE OF MINNESOTA:

Supreme Court, April Term, A. D. 1899.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND Warehouse Commission, Appellant, *vs.* W. W. CARGILL COMPANY, a Corporation, Respondent. } Stipulation.

It is by and between the parties to the above-entitled action hereby stipulated and agreed that there are no facts, evidence, or proofs that can be offered or introduced by either of said parties upon a new trial of said action in the district court of Ramsey

county other than, different from, or in addition to those contained in the record and return in said action in this court, and that as no remittitur in said action has been filed in the said district court of Ramsey county, this court may make such further order or judgment in said action as to the court shall seem meet and proper.

Dated St. Paul, Minn., July 31st, A. D. 1899.

W. B. DOUGLAS,
*Attorney General, Attorney for Appellant.*
KOON, WHELAN & BENNETT,
*Attorneys for Respondent.*

70 [Endorsed:] 11521. State of Minnesota, Supreme court, April term, A. D. 1899. State of Minnesota *ex rel. vs.* W. W. Cargill Co. Stipulation.

Endorsed: Filed Aug. 2, 1899. D. F. Reese, clerk.

71 STATE OF MINNESOTA:

Supreme Court, April Term, A. D. 1899.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND WAREHOUSE COMMISSION, Appellant,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Respondent. } Order.

It having been made to appear to the court that there are no facts, evidence, or proofs that can be offered or introduced in evidence by either of said parties upon a new trial of said action in the district court of Ramsey county, from which said appeal was taken, other than, different from, or in addition to those contained in the record and return in said action on file in this court, and that the findings of fact upon a new trial of said action would be the same as those already contained in the record and return thereof now on file in this court, and upon which an order and judgment of this court heretofore entered was made:

Now, upon motion of Hon. W. B. Douglas, attorney general—

It is hereby ordered that the order and judgment heretofore entered by this court in the above-entitled action be, and the same hereby is, annulled and set aside, and the judgment of the district court of Ramsey county be, & the same is hereby, in all things reversed.

Ordered, further, that a final judgment in favor of the appellant, The State of Minnesota *ex rel.* The Railroad & Warehouse Commission, be made and entered in said action, adjudging unto said appellant the full relief demanded in its complaint, together with costs and disbursements.

Ordered, further, that a duly certified copy of such final
72 judgment, when so made and entered, be remitted to the district court of Ramsey county of said State, to be there entered and stand in said court as the final judgment in said action.

By the court:

CHAS. M. START,
*Chief Justice.*

Dated August 1st, A. D. 1899.

73 [Endorsed:] 11521. (Copy.) State of Minnesota, supreme court, April term, A. D. 1899. State of Minnesota *ex rel.* The Railroad & Warehouse Commission, appellant, *vs.* W. W. Cargill Company, a corporation, respondent. Copy of order.
Endorsed: Filed August 2, 1899. D. F. Reese, clerk.

74 STATE OF MINNESOTA:

Supreme Court, April Term, A. D. 1899.

STATE OF MINNESOTA *ex Rel.* THE RAILROAD AND Warehouse Commission, Appellant,
*vs.*
W. W. CARGILL COMPANY, a Corporation, Respondent. } Judgment.

Pursuant to an order of court duly made and entered in this cause on the 1st day of August, A. D. 1899—

It is here and hereby determined and adjudged that the judgment of this court in this cause heretofore and on the 25th day of July, A. D. 1899, made and entered be, and the same hereby is, in all things annulled and set aside.

And it is further determined and adjudged that the judgment of the court below herein appealed from, to wit, of the district court of the second judicial district, sitting within and for the county of Ramsey, be, and the same hereby is, in all things reversed.

And it is further determined and adjudged that the said W. W. Cargill Company, respondent above named (defendant in the court below), be, and hereby is, perpetually restrained and enjoined from using or operating the elevator or warehouse referred to and described in the appellant's (plaintiff in the court below) complaint in this cause for receiving, shipping, storing, or handling wheat or other grain in same until said W. W. Cargill Company shall have been duly licensed therefor by the said Railroad and Warehouse Commission, according to the prayer of said complaint.

And it is further determined and adjudged that the appellant above named do have and recover of said W. W. Cargill Company, respondent herein, the sum and amount of ninety-eight
75 (98.00) dollars, costs and disbursements in this court, and that said appellant have execution for the enforcement therefor.

Dated and signed this 2nd day of August, A. D. 1899.
By the court.

[Seal of the Supreme Court, State of Minnesota.]

Attest: D. F. REESE, *Clerk.*

*Statement for Judgment.*

| | |
|---|---|
| Costs allowed by statute | $ |
| Clerk's fees for making return | |
| Printer's fees | 84.00 |
| Clerk's fees, supreme court | 14.00 |
| Filing mandate | |
| Affidavits and acknowledgements | |
| Postage | |
| | $98.00 |

75½ STATE OF MINNESOTA, } ss:
*Supreme Court,* }

I, D. F. Reese, clerk of said supreme court, do hereby certify that the foregoing is a full and true copy of the entry of judgment in the cause therein entitled, as appears from the original remaining of record in my office; that I have carefully compared the within copy with said original, and that the same is a correct transcript therefrom.

Witness my hand and the seal of said supreme court, at the capitol, in the city of St. Paul, this 2nd day of August, A. D. 1899.

——— ———, *Clerk.*

76 [Endorsed:] 11521. State *ex rel.* Railroad & Warehouse Commission, appellant, *vs.* W. W. Cargill Company, respondent.

Endorsed: Filed August 2, 1899. D. F. Reese, clerk. Page No. 55, X.

77 STATE OF MINNESOTA, } ss:
*Supreme Court,* }

I, D. F. Reese, clerk of the supreme court of Minnesota, do hereby certify and return to the Supreme Court of the United States that the foregoing and annexed transcript of record is a full and complete transcript of the record in said court in the case of State of Minnesota *ex rel.* The Railroad and Warehouse Commission, plaintiff and appellant, and W. W. Cargill Company, a corporation, defendant and respondent, in said supreme court, including the pleadings, stipulations, stipulations of fact, evidence and proofs, findings of fact, motion for findings of law and for judgment, conclusions of law, memorandum of opinion of the trial court, judgment of the trial court, judgment-roll, opinion of said supreme court in said cause, order for final judgment in said supreme court, final judgment in said supreme court, and all papers filed and proceedings had in said cause in said court.

I do further certify and return that I have annexed to said transcript and included therewith the original writ of error from the Supreme Court of the United States, the original citation issued therein, with proof of service thereon, also the original petition for the allowance of said writ of error, together with the assignment of

errors and a copy of the bond on said writ of error, and that the foregoing constitutes a full, true, and complete return in obedience to the command of said writ of error.

In witness whereof I have hereunto set my hand and the seal of said supreme court of the State of Minnesota, at the capitol, St. Paul, Minnesota, this 8th day of August, A. D. 1899.

[Seal of the Supreme Court, State of Minnesota.]

D. F. REESE,
*Clerk of the Supreme Court of the State of Minnesota,*
By J. L. HELM, *Deputy.*

[Endorsed:] State of Minnesota, supreme court. State of Minnesota *ex rel.* Railroad & Warehouse Commission, appellant, *vs.* W. W. Cargill Company, a corporation, respondent. Return to United States court.

Endorsed on cover: File No., 17,486. Minnesota supreme court. Term No., 116. W. W. Cargill Company, plaintiff in error, *vs.* The State of Minnesota *ex rel.* The Railroad and Warehouse Commission Filed August 11th, 1899.